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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/684,369	10/15/2003	David Emerson	031223	3372
38834	7590	12/29/2006	EXAMINER	
WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP 1250 CONNECTICUT AVENUE, NW SUITE 700 WASHINGTON, DC 20036			CABRERA, ZOILA E	
		ART UNIT	PAPER NUMBER	
		2125		
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		12/29/2006	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/684,369	EMERSON ET AL.	
	Examiner	Art Unit	
	Zoila E. Cabrera	2125	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 10 October 2006.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-12 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)
 Paper No(s)/Mail Date _____.
- 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application
- 6) Other: _____.

DETAILED ACTION

Final Rejection

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-12 are presented for consideration.

The rejection with respect to claims 1-12 is maintained.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-2, 4 are rejected under 35 U.S.C. 102(e) as being anticipated by **Tanaka et al. (US 2006/0142888)**.

Regarding claims 1-2, and 4, **Tanaka discloses:**

1. A production process rating method for rating a production process on the basis of a predetermined rating standard, the method comprising preparing in advance plural data including performance rating items associated with rating values as rating indexes for a production process and storing the data into a memory, gathering achievement data by a gathering unit when the production process is executed, judging by an arithmetic unit

whether or not the executed production process satisfies conditions defined by the performance rating items on the basis of the gathered achievement data, adding or subtracting a point or points to or from the rating values or performing another arithmetic operation for rating in accordance with the result of the judgment, and comprehensively rating the production process on the basis of the plural performance rating items (Figs. 5, 16, 18-19, 21-22, 27, 30-33; [0005]; [0006]; [0008]; [0012]-[0013]).

2. The production process rating method as claimed in claim 1, wherein a reference score is set as a default value in starting to rate the production process, and the arithmetic unit adds or subtracts a rating value from the reference score or performs another arithmetic operation for rating in accordance with the result of judgment made for each performance rating item, thereby deciding an ultimate total rating score (Fig. 31).

4. The production process rating method as claimed in claim 1 or 2, wherein the production process is a continuous process or a discontinuous process (Fig. 26).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3, 5-8 and 9-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Tanaka et al. (US 2006/0142888)** in view of Applicant's admitted prior art (Specification, Pages 1-2; Figs. 1-2)

Tanaka discloses the limitations of claim 1 above. The same citations applied to claim 1 above apply as well for claims 9-10. However, **Tanaka** fails to disclose some limitations of claims 9-10 and the limitations of claims 3-8 and 11. But **Applicant** admits that these limitations are known under "Description of the Related Art" as follows:

Regarding claims 3, 5-8,

3. The production process rating method as claimed in claim 1 or 2, wherein the production process is a batch process (Fig. 1);
5. The production process rating method as claimed in claim 3, wherein a total rating score is decided for each batch process or for each unit recipe in the batch process (Fig. 1, the total rating score corresponds to each number on the y-axis).
6. The production process rating method as claimed in claim 3, wherein when a batch production cycle time is between an upper limit value and a lower limit value, the arithmetic unit adds a rating value or performing another arithmetic operation for rating to the reference score (Fig. 2, cycle time between 00:00:00 – 00:05:00).
7. The production process rating method as claimed in claim 3, wherein when a batch

production cycle time is more than an upper limit value or less than a lower limit value, the arithmetic unit subtracts a rating value or performing another arithmetic operation for rating from the reference score (Figs. 1-2).

8. The production process rating method as claimed in claim 3, wherein rating is carried out when the number of times a batch based on the same recipe revision is executed is a predetermined number or more (Fig. 2).

Regarding claims 9-10,

a display unit for displaying on a screen a graph based on the result of the rating by the arithmetic unit, with one coordinate axis representing total rating score and the other coordinate axis representing batch ID or unit recipe ID .

a display unit for displaying on a screen a graph based on the result of the rating by the arithmetic unit, with one coordinate axis representing the number of batches or the number of unit recipes and the other coordinate axis representing sections of a total rating score (Figs. 1-2; Pages 2-3 of the specification).

As for claims 11-12,

11. The production process rating apparatus as claimed in claim 9 or 10, wherein the display unit displays the result of the rating in a bar graph, a line graph, a circle graph, a radar chart, or a graph plotting a total rating score (Figs 1-2).

12. The production process rating apparatus as claimed in claim 9, wherein the display unit displays the result of the rating for each batch ID or unit recipe ID in a bar graph on a screen, the apparatus further comprising: a graph preparation unit for preparing a

rating achievement data graph for each batch ID or unit recipe ID from rating achievement data with respect to rating parameters; a selector unit for selecting one of bar graphs displayed on the screen; and a call-up unit for calling up a rating achievement data graph including batch ID or unit recipe ID based on the selected bar graph onto the screen (Specification, Pages 2-3; Figs. 1-2).

Therefore, it would have been obvious to a person of the ordinary skill in the art at the time the invention was made to combine the teachings of Tanaka with already known bar graphs displays as disclosed under "Description of the related art" because it would provide an improved graphical interface for displaying the performance achievements of a process that can be easily grasped in a bar graph.

Response to Arguments

4. Applicant's arguments filed October 10, 206 have been fully considered but they are not persuasive.

In response to applicant's argument, with respect to claim 1, Pages 2-3, that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (Page 2, i.e., a production process rating method for rating a production process *on the basis of a predetermined rating standard*; Page 3, a total rating score is obtained from a series of arithmetic operations for each batch process or each unit recipe in the batch process) are not recited in the rejected claim 1. Although the claims are interpreted in light of the specification, limitations from the

specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

As stated in the previous office action, Applicant admits under "Description of the Related Art" that the limitations of claim 5, "a total rating score is decided for each batch process or for each unit recipe in the batch process", are known in the art (see Fig. 1, the total rating score corresponds to each number on the y-axis).

Applicant further contends that Tanaka does not disclose or suggest "prepare in advance plural data including performance rating items associated with rating values as rating indexes for a production process" and "comprehensively rate the production process on the basis of the plural performance rating items". Examiner disagrees because Tanaka teaches such limitations as described above (Figs. 5, 22; [0051], [0060], [0082]).

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

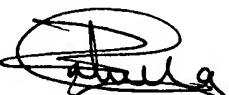
Art Unit: 2125

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning communication or earlier communication from the examiner should be directed to Zoila Cabrera, whose telephone number is (571) 272-3738. The examiner can normally be reached on M-F from 8:00 a.m. to 5:30 p.m. EST (every other Friday).

If attempts to reach the examiner by phone fail, the examiner's supervisor, Leo Picard, can be reached on (571) 272-3749. Additionally, the fax phones for Art Unit 2125 are (571) 273-8300. Any inquiry of a general nature or relating to the status of this application should be directed to the group receptionist at (703) 305-9600.

Zoila Cabrera
Primary Examiner
12/22/06


ZOILA CABRERA
PRIMARY EXAMINER
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12/22/06